

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>v.</b>	)	<b>No. 3:06-CR-21</b>
	)	<b>(Phillips)</b>
<b>TERRY JONES</b>	)	

**ORDER**

This matter is before the Court on defendant's appeal of the Magistrate Judge's 6-page memorandum and order [Doc. 66]. The appeal concerns Magistrate Judge Guyton's denial of defendant's request for the name of the expert proffered by the United States; the denial of a hearing under *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), to determine the admissibility of said expert testimony; and the denial the defendant's motion in limine regarding expert testimony. The defendant asserts that the denial of his motion [Doc. 59] also inhibits his ability to acquire an expert in rebuttal, thus impeding his ability to present a clear and meaningful defense of this matter. The defendant cites *Holmes v. South Carolina*, 126 S.Ct. 1727 (2006) in support of this proposition.<sup>1</sup>

Magistrate Judge Guyton's order was entered pursuant to 28 U.S.C. § 636(b).

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<sup>1</sup>In the *Holmes* case, the United States Supreme Court reversed the trial court when it excluded defense evidence of third party guilt pursuant to a rule determined to be arbitrary in its application, i.e., the rule, as applied, excluded important defense evidence but did not serve any legitimate interest. *Holmes*, 126 S.Ct. at 1735. As such, the Supreme Court stated that the defendant is entitled to present a clear and meaningful defense. *Id.*

Under 28 U.S.C. § 636(b), a court can reconsider a magistrate judge's ruling if it is "clearly erroneous" or "contrary to law." Accordingly, the Court has now undertaken a review of Magistrate Judge Guyton's order. After doing so, the Court concludes that Judge Guyton's rulings are consistent with the Federal Rules of Evidence, Federal Rules of Criminal Procedure, and applicable case law, and thus, a detailed written opinion by the undersigned covering the same grounds would be unduly duplicative. The rulings rendered by Judge Guyton are accordingly **AFFIRMED** on the basis of the reasoning set forth in his memorandum and order dated July 2, 2007. Accordingly, Defendants' appeal [Doc. 66] is hereby **DENIED** in its entirety.

**IT IS SO ORDERED.**

**ENTER:**

s/ Thomas W. Phillips  
United States District Judge